

April 26, 2017

**Ex Parte**

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12<sup>th</sup> Street, SW  
Washington, DC 20554

Re: *In re Petition for Declaratory Ruling Regarding Applicability of the IntraMTA Rule to LEC-IXC Traffic*, WC Docket No. 14-228

Dear Ms. Dortch:

On April 24, 2017, on behalf of Sprint, I met with General Counsel Brendan Carr, Deputy General Counsel David Gossett, and Deputy Associate General Counsel Richard Welch. Keith Buell from Sprint, Joe Cavender from Level 3, and Curtis Groves from Verizon also attended the meeting. Janette Luehring from Sprint participated in the meeting by phone, as did Amy Richardson, counsel to Sprint.

We explained that the Commission has made clear that access charges may not be imposed on intraMTA wireless calls, whether or not an IXC is involved in carrying the call:

- In 1996, the Commission applied the then-new reciprocal compensation regime to all local calls, including intraMTA wireless calls.
- Some LECs subsequently argued for an “IXC exception” under which they would receive access charges rather than reciprocal compensation if an IXC or other third party was involved in an intraMTA call.
- After multiple appellate courts rejected that argument, some LECs asked the Commission to decide, in the words of the 2011 *Transformation Order*, that a “call is subject to access charges, not reciprocal compensation, even if the call originates and terminates within the same MTA,” when an “intermediate carrier” is involved. *Transformation Order*, 26 FCC Rcd. 17,663 (2011), ¶ 1007.
- In 2011, the Commission rejected that argument, holding that “intraMTA traffic is subject to reciprocal compensation regardless of whether the two end carriers are directly connected or exchange traffic indirectly via a transit carrier.” *Id.*

- Some LECs nevertheless persuaded the court conducting the multi-district litigation (“MDL”) proceeding that they are entitled to *both* reciprocal compensation *and* access charges on intraMTA calls involving an IXC. In our meeting we showed the attached Venn diagram that the MDL defendants presented to the court, which shows that they claim that they are entitled to collect both reciprocal compensation and access charges on intraMTA calls involving an IXC.
- Thus, in the LECs’ view the Commission established an intercarrier compensation rule under which *more* intercarrier compensation is due on local wireless calls than on long-distance wireline calls.
- The Commission did not intend that result.
  - The Commission adopted the intraMTA rule in 1996 to foster local competition, not to burden those calls with multiple forms of intercarrier compensation.
  - In 2011, the Commission rejected the request for an “IXC exception” as part of a broad effort to reduce intercarrier compensation and ultimately move to bill-and-keep.

For these reasons, we asked the Commission to respond to the pending Petition for Declaratory Ruling by again stating that intraMTA calls are subject to reciprocal compensation and are not subject to access charges, whether or not a third party is involved in carrying the call. Although it is redundant, to avoid the confusion the petitioners and MDL defendants have fostered, the Commission should add that LECs may not collect access charges from any carrier on any intraMTA calls. The Commission should emphasize that its regulations:

- define intraMTA wireless traffic as “non-access traffic,” 47 C.F.R. § 51.701(b);
- provide, with respect to charges for originating calls, that “[a] LEC may not assess charges on any other telecommunications carrier for Non-Access Telecommunications Traffic that originates on the LEC’s network,” 47 C.F.R. § 51.703(b); and
- provide, with respect to charges for terminating calls, that a LEC may collect reciprocal compensation, but “[i]n no event may the total charges that a LEC may assess for such service to the called location exceed the applicable transport and termination rate.” 47 C.F.R. § 51.703(b).

In addition, we pointed out that in both 1996 and 2011, the Commission considered the argument that it may be difficult for LECs to distinguish intraMTA calls from calls for which they may collect access charges, and each time it concluded that carriers should conduct traffic studies to estimate the percentage of calls on which access charges are due. Specifically, the Commission in 2011 noted that Vantage Point “questions whether the intraMTA rule is feasible when a call is routed through interexchange carriers” because, Vantage Point asserted, “it is not

currently possible to determine if a call is interMTA or intraMTA, Vantage Point Oct. 21, 2011 Ex Parte Letter at 2-3.” *Transformation Order*, n. 2132. The Commission rejected that argument, explaining: “the Commission addressed this concern when it adopted the rule. See Local Competition First Report and Order, 11 FCC Rcd at 16017, para. 1044 (stating that parties may calculate overall compensation amounts by extrapolating from traffic studies and samples).” *Transformation Order*, n. 2132. In short, the Commission has instructed carriers on how to make the distinction between interMTA and intraMTA calls.

Sprint, Level 3, and Verizon have identified intraMTA traffic on which the LECs have incorrectly assessed access charges. Once the Commission clarifies that access charges are never due on intraMTA wireless traffic even if an IXC is involved in the call flow, the industry would quickly be able to work out the implementation details both prospectively and retroactively.

Finally, we noted that, although the amount at issue is substantial, it amounts to a very small percentage of the total charges among the carriers. For example, since 2006 the amount of payments to the carriers involved in the MDL litigation that Sprint disputes on account of the intraMTA issue is only 1.24% of the total amount those carriers have charged over that period.

Sincerely,

/s/ Christopher J. Wright

Christopher J. Wright  
*Counsel to Sprint Communications Co., L.P.*

cc: Brendan Carr  
David Gossett  
Richard Welch

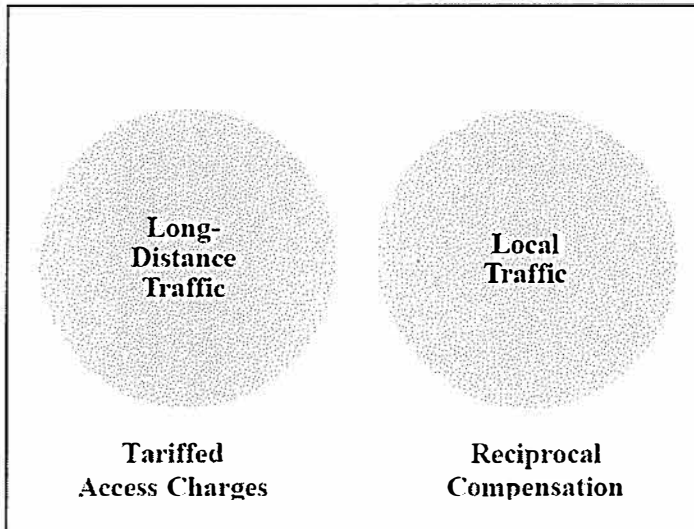
Attachment

# ATTACHMENT

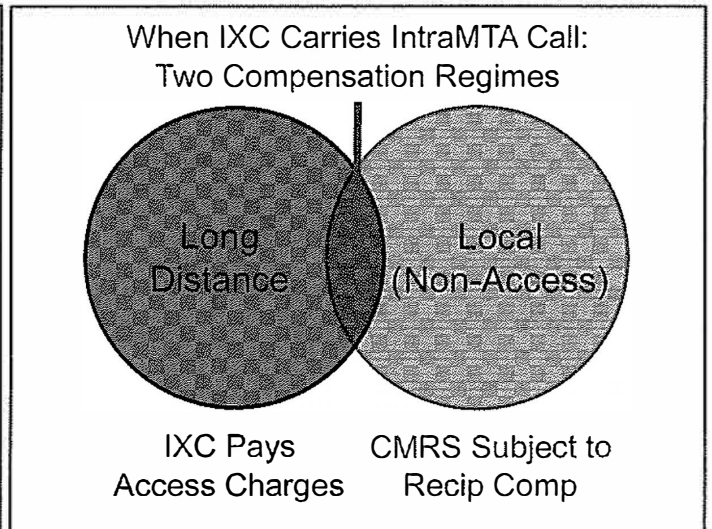
This "demonstrative," submitted by LECs to the MDL court, shows that they seek to collect both access charges and reciprocal compensation on intraMTA wireless calls.

## Two Regimes Not “Mutually Exclusive”

### IXC's (Rejected) View of Compensation Regimes



### Actual Compensation Regimes



Source: Level 3 Motion, at 12

Authority: *TSR Wireless* ¶ 31; 2001 *LCO* ¶ 30 (cited at LEC Opp. at 17-18); 2011 *Transformation Order NPRM* ¶ 502 (cited at LEC Opp. at 5)